

**TOWN OF ELSMERE
COUNCIL MEETING MINUTES
May 12, 2011
Council Chambers
6:30 p.m.**

CALL TO ORDER: Mayor Deborah A. Norkavage called the meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

MAYOR	DEBORAH A. NORKAVAGE	PRESENT
1 ST DISTRICT	JOHN JAREMCHUK, JR.	PRESENT
2 ND DISTRICT	STEVEN BURG	PRESENT
3 RD DISTRICT	VACANT	
4 TH DISTRICT	CHARLES MCKEWEN	PRESENT
5 TH DISTRICT	JOANN I. PERSONTI	PRESENT
6 TH DISTRICT	EDWARD OLGA	PRESENT
Town Solicitor, Edward McNally – Present		
Town Manager, John Giles – Present		
Chief of Police, Laura Giles - Present		

PUBLIC COMMENT: None

APPROVAL OF MINUTES:

ACTION: A motion was made by Councilwoman Personti to approve the minutes of the March 16, 2011 Special Council Meeting with no corrections. The motion was seconded by Councilman Jaremchuk.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

ACTION: A motion was made by Councilwoman Personti to approve the minutes of the March 24, 2011 Special Council Meeting with no corrections. The motion was seconded by Councilman Jaremchuk.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

ACTION: A motion was made by Councilwoman Personti to approve the minutes of the April 1, 2011 Special Council Meeting with no corrections. The motion was seconded by Councilman Jaremchuk.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

ACTION: A motion was made by Councilwoman Personti to approve the minutes of the April 13, 2011 Special Council Meeting with no corrections. The motion was seconded by Councilman Jaremchuk.

VOTE: 5-0 with 1 Vacant, 1 abstained All-in-Favor Motion carried

1st District – Yes, 2nd District – Yes, 3rd District – Vacant, 4th District – Abstained,
5th District – Yes, 6th District – Yes, Mayor – Yes

Councilman McKewen stated that he has abstained that due to being absent at that meeting.

ACTION: A motion was made by Councilwoman Personti to table the minutes of the April 14, 2011 Council Meeting for corrections and clarifications. The motion was seconded by Councilman Jaremchuk.

VOTE: 5-0 with 1 Vacant, 1 abstained Motion carried

1st District – Yes, 2nd District – Yes, 3rd District – Vacant, 4th District – Abstained,
5th District – Yes, 6th District – Yes, Mayor – Yes

Councilman McKewen stated that he has abstained that due to being absent at that meeting.

OLD BUSINESS:

Consideration for Third and Final Reading as well as public hearing of Ordinance 530

ACTION: A motion was made by Councilman Jaremchuk to consider Ordinance 530 for Third and Final Reading. The motion was seconded by Councilman Burg.

Councilman Jaremchuk stated that he has reservations regarding this ordinance.

Councilwoman Personti stated that she has concerns regarding the specification that the fire pit must be commercially manufactured, and she feels it should read structurally sound.

Mayor Norkavage stated that she agrees that a change in wording may be in order for this ordinance.

VOTE: 0-6 with 1 Vacant Ordinance Defeated

Consideration for Third and Final Reading as well as public hearing of Ordinance 531

ACTION: A motion was made by Councilman Jaremchuk to consider for Third and Final Reading and approval of Ordinance 531. The motion was seconded by Councilman Burg.

Town Manager Giles stated that he asked the Planning Commission to give their opinions regarding this ordinance and only received 1 response, from Commissioner Lindell who stated that should this ordinance pass he believed that a possible amendment to the definition of a structure should be considered.

Commissioner Ronald Russo stated that he is in favor of this ordinance and feels that it will be helpful.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

Update regarding the Elsmere Police Pension Plan

At this time Councilman Jaremchuk updated that council concerning possible changes to the Plan by moving the current officers employed by the Elsmere Bureau of Police be moved to the State Police Pension Plan.

Town Solicitor Edward McNally stated that he has located a lawsuit from 1976 where the Delaware Supreme Court vetoed a transfer from the Delaware State Employee Pension Plan because it held that the participants who are vested in the plan have a contractual right to keep the assets of the plan intact and not have them transferred out to benefit people who are not vested.

ACTION: A motion was made by Councilman Jaremchuk to transfer \$345,000.00 in the Police Pension Fund.

The motion received no second.

Consideration for Third and Final Reading of Ordinance 532

ACTION: A motion was made by Councilwoman Personti to approve Ordinance 532. The motion was seconded by Councilman Jaremchuk.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

NEW BUSINESS:

Consideration of filling positions of the Board of Adjustment which will expire June 1, 2011.

ACTION: A motion was made by Mayor Norkavage to reappoint James Personti to his position on the Board of Adjustment to expire on June 1, 2014. The motion was seconded by Councilman Burg.

Town Manager Giles stated that as a clarification, this is a change from what is reflected on the agenda which reads that Chairman Paul Chalfant was to be reappointed.

VOTE: 5-0 with 1 Vacant, 1 Abstained Motion carried

1st District – Yes, 2nd District – Yes, 3rd District – Vacant, 4th District – Yes,
5th District – Abstained, 6th District – Yes, Mayor – Yes

Councilwoman Personti stated that she has abstained because it is her husband.

ACTION: A motion was made by Mayor Norkavage to appoint Mr. John Acton to the Board of Adjustment to replace Mr. Tom Manual for a term to expire on June 1, 2014. The motion was seconded by Councilwoman Personti.

Councilman Burg asked for Clarification that Mr. Manual will not be reappointed and that Mr. Acton will be filling his position.

Mayor Norkavage confirmed.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

Consideration of filling positions on the Planning Commission which will expire on June 1, 2011.

ACTION: A motion was made by Mayor Norkavage to reappoint Leon Backer to the Planning Commission for a term to expire June 1, 2014. The motion was seconded by Councilman Jaremchuk.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

ACTION: A motion was made by Mayor Norkavage to reappoint Ronald Russo to the Planning Commission for a term to expire June 1, 2014. The motion was seconded by Councilman Jaremchuk.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

ACTION: A motion was made by Mayor Norkavage to reappoint Mark A. Sheldon to the Planning Commission for a term to expire June 1, 2014. The motion was seconded by Councilman Jaremchuk.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

ACTION: A motion was made by Mayor Norkavage to appoint Mr. Charles F. Woodward, Jr. to the Planning Commission to complete the remaining term vacated by Commissioner John Acton. The motion was seconded by Councilman Jaremchuk.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

Consideration of filling positions on the Board of Elections which will expire June 21, 2011.

ACTION: A motion was made by Mayor Norkavage to reappoint Eric Scott Thompson to the Board of Elections for a term to expire June 21, 2013. The motion was seconded by Councilman Jaremchuk.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

Consideration of Resolution 11-03

ACTION: A motion was made by Councilman McKewen to approve Resolution 11-03. The motion was seconded by Councilwoman Personti.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

Consideration of setting the FY 2011-2012 Budget Process

Councilman Jaremchuk stated that he believes an all day session on a Saturday to complete the budget in one motion.

ACTION: A motion was made by Councilman Jaremchuk to convene a budget hearing on Saturday May 21, 2011 at 10:00am. The motion was seconded by Councilman Burg.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

Consideration of a request by the Town Manager to purchase computer software programs which will benefit both the Finance and Code Enforcement Departments.

Town Manager John Giles stated that he would like to purchase \$9,680.00 computer software from Edmunds and Associates which is our existing Financial Software. This is for Code Enforcement Permitting and Escrow Accounts. He stated that the program will help take the need for money exchange from the Code Enforcement Department and keep it completely within the Finance Department and bring all data regarding one property together within the system. This would bridge a gap between licenses, permits, violations, invoices, liens and taxes so that they all show when you check the taxes of a property.

Councilman Jaremchuk stated he has concern with purchasing finance software because of previous re-occurring shifts in software. He stated that he would feel more comfortable with this if he had a guarantee that the software would not change any time in the near future.

Town Manager John Giles stated that he see no reason to change software at this time, there are portions of this program we still aren't using and that Edmunds is a fantastic program that he currently see no problems with. He stated that he can't guarantee that

there will not be a time down the road for new software, however, he does not see that time appearing any time soon.

Councilman Jaremchuk asked what the cost benefit of this program is.

Town Manager John Giles stated that he believes it is well worth the cost. It takes invoicing out other departments and brings it solely into the Finance Department, it free up time from the Code Enforcement Department to work on other things while the Finance Department invoices and takes payments and brings in a new level of accountability.

ACTION: A motion was made by Councilman Jaremchuk to allow the appropriation of \$9,680.00 to allow the purchase of the new Edmunds Software. The motion was seconded by Councilman Burg.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

Consideration of a request by the Town Manager a list of line item transfers to allow the purchase of the Edmunds Software.

ACTION: A motion was made by Councilman Jaremchuk to approve the 11 requested line item transfers to allow the purchase of the Edmunds Software. The motion was seconded by Councilman Burg.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

Consideration for the first and second reading of Ordinance 533.

ACTION: A motion was made by Councilman Burg to consider for first and second reading of Ordinance 533. The motion was seconded by Councilwoman Personti.

Councilman Burg explained the Ordinance and stated that the request was made by the business community and was made to New Castle County who forwarded the request to us.

Town Manager John Giles stated that he believes that this is also in the interest of Public Safety for the Fire Department and the Police Department.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

Consideration for first and second reading of Ordinance 534.

Town Manager Giles stated that this is a resident who has made a petition for rezoning of a property on New Road. This is something that has been heard by the Planning Commission and has now been forwarded to the Mayor and Council for a decision.

Councilman Jaremchuk stated that he believes that this should at least go for a public hearing at the next Council Meeting.

ACTION: A motion was made by Councilman Jaremchuk to consider for first and second reading Ordinance 534. The motion was seconded by Councilman Burg.

VOTE: 4-2 with 1 Vacant All-in-Favor Motion carried

1st District – Yes, 2nd District – Yes, 3rd District – Vacant, 4th District – Yes,
5th District – No, 6th District – No, Mayor – Yes

Councilwoman Personti asked Town Solicitor Edward McNally if at this time she was required to state her reason for voting against this Ordinance

Mr. McNally stated that at this time that action is not necessary because the vote could change at the public hearing after evidence is presented.

DEPARTMENTAL REPORTS:

Code Enforcement

Town Manager Giles stated that the report is in the packets and that he would be happy to answer any questions.

Finance

Town Manager Giles stated that there are still funds that available and that there are very few lines over budget at this time. He stated that there is one line in particular that is over which is civic affairs for the events and July 4th which is a pre-paid expense account that will be used from the approved budget beginning July 1st.

Councilman Burg asked what the First Movies in the Parks movie would be.

Assistant Town Manager Tina Law stated that the movie would be Grease.

Councilman Burg asked if there would be a rain date.

Assistant Town Manager Tina Law stated that there have not been rain dates in the past.

Public Safety

Councilman Burg stated that he was impressed with the number of cell phone violations issued during the month reported, he was happy to see that the department has been looking at those seriously.

Councilwoman Personti stated that she was happy with the response that she received regarding the people driving down a one way street on Chestnut Avenue and that there was an officer sitting at the intersection watching for this issue.

Martha Carum and Lynn Rynmeyer for Locust Avenue asked the Chief Giles if something could be done regarding the gravel area outside of the Police Entrance and that she almost fell on the soft area.

Chief Giles stated that this has already been taken care of and that it was unpaved temporarily due to a gasoline tank that was removed and had to be tested prior to repaving.

Public Works

Town Manager John Giles stated that the Park Inspections have been completed and a few minor repairs are required.

Mayor Norkavage asked if additional mulch would be addressed in the parks.

Town Manager John Giles stated that he has received a request from the Park Inspector for the purchase of the required mulch.

Councilman Jaremchuk asked what the schedule for the abatements of vacant properties was this year.

At this time there was some background noise and the tape was inaudible.

Town Manager John Giles stated that the Code Enforcement Officer is doing inspections and that he will make sure that these vacant properties are being looked at closely.

Councilman Burg asked if the AutoMart at the corner of Northern Avenue and Kirkwood Hwy had received any nuisance notices.

Town Manager John Giles stated that they have been cited several times and that they have even been down to measure the amount of space between each vehicle.

Lynn Rymeyer stated that her neighbor has been using her power washer to spray her and her fence and she would like someone to come down and speak with her neighbor.

Mayor Norkavage stated that she should contact the Town immediately because we can't do anything after a situation has occurred only during.

Martha Carum stated that Ms. Rynmeyer is afraid to call because she has been labeled a nuisance property and she is afraid that if she calls regarding this problem she will receive fines and get in trouble.

Chief Laura Giles stated that she will look into the situation and that after the meeting she would like to get Ms. Rynmeyer's information.

Town Manager

Town Manager John Giles stated that he would like to discuss the CDBG Grant and that the Town has been entering this grant through New Castle County and how the grant

affects the residents. He believes that we should continue with the grant through New Castle County instead of applying separately and competing with the county for this grant money.

Councilman Jaremchuk stated that he feels that we should continue with this agreement however, maybe we could encourage New Castle County to make our residents more aware of the programs they qualify for through this grant.

Town Manager John Giles stated that we would also find a place for it on the website and try to get a packet together to send out in the tax bills this year.

ACTION: A motion was made by Councilman Jaremchuk to continue with New Castle County on the CDBG Grant Program. The motion was seconded by Mayor Norkavage.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

Consideration for approval of a letter to Town Residents regarding Nuisance Properties.

ACTION: A motion was made by Councilwoman Personti to approve the letter as submitted to Mayor and Council. The motion was seconded by Councilman Olga.

Councilman Jaremchuk stated that he is reluctant about this letter because it is to the residents regarding controlling their children and damages made to neighbors' properties. He believes that the families with control issues may not even read the notices.

Councilwoman Personti stated that while she partially agrees she feels that this is necessary because the council has been approached by several residents regarding these types of issues and that this will show the residents that they are working to address this matter.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

Town Manager John Giles stated that he has made 400 copies for each district which is at their seats tonight.

PUBLIC COMMENT:

None

ITEMS SUBMITTED BY MAYOR AND COUNCIL:

1st District – None

2nd District – None

3rd District – Vacant

4th District – None

5th District

Councilwoman Personti stated that she is impressed that the Town Manager has been researching other municipalities which have regulations about multiple families living within one dwelling. She stated that the Delaware Housing Code addresses the issue and that we have that to fall back on in any issues.

Mayor Norkavage stated that believes that the gaining access and inspections are the real issue at hand not the code to cite.

6th District – None

Mayor - None

ADJOURNMENT:

ACTION: A motion was made by Councilman Jaremchuk to Adjourn. The motion was seconded by Councilman Burg.

VOTE: 6-0 with 1 Vacant All-in-Favor Motion carried

These minutes summarize agenda and other issues discussed at this Council Meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tapes may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

DEBORAH A. NORKAVAGE
MAYOR

JOANN I. PERSONTI
SECRETARY